

OGC Has Reviewed

30 JUN 1978

STATINTL MEMORANDUM FOR: [REDACTED]

FROM: Thomas B. Yale
Director of Finance

SUBJECT: Request for Restoration of Annual Leave

REFERENCES: A. Memorandum to you from Acting Director
of Finance, dtd. 7 Sept. 1977, Same
Subject

STATINTL

B. [REDACTED]

1. I am pleased to inform you that a further review of the facts and circumstances causing your forfeiture of leave for the 1976 leave year has resulted in a determination by the Office of General Counsel that the spirit of the governing requirements of reference were satisfied. Accordingly, I have established a Restored Leave Account of 59 hours. In accordance with Reference B, this leave must be used prior to 13 January 1979.

2. It is important that the provisions of [REDACTED] STATINTL paragraph 3c(5) be carefully followed in reporting use of restored leave to facilitate the manual processing requirements for your restored leave account. A copy of the Restored Leave Report form is attached for your convenience.

(signed) Thomas B. Yale

Thomas B. Yale

Att

Approved For Release And Record Sheet
Category: **ROUTING AND RECORD SHEET** Case No. **DDP81-00142R000400070004-0**

ACT: (Optional)

Request for Restoration of Annual Leave

DMs

John F. Blake
Deputy Director for Administration
7D26 HQS.(Officer designation, room number, and
address)Mr. John Waller
Inspector General
6E08 HQS.

EXTENSION

NO.

5454

OFFICER'S
INITIALS

DATE

5 JUL 1978

COMMENTS (Number each comment to show from whom
to whom. Draw a line across column after each comment.)

DD/A Registry

John:

File Personnel

1. There is attached a copy of a D/Finance memo to [REDACTED] informing him of the establishment of a restored leave account for the forfeited leave which was the subject of your memo of 30 May 1978 to the DDCI.

2. The 30 May memo is being returned to you because the authority to waive regulations as requested in that memo is vested in me by [REDACTED]. Before acting on the waiver request, I asked for Office of Finance comments. Finance requested OGC in the light of a recent OGC finding on another restored leave case to determine whether there was any basis for a ruling that the spirit of the regulations had been satisfied in [REDACTED] case. OGC ruled affirmatively. The Office of Finance informal request to General Counsel and the General Counsel response are also attached for your information.

/s/ John F. Blake

John F. Blake

Atts

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DD/A Registry

STATINTL

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UNCLASSIFIED CONFIDENTIAL SECRET

20

7/5

OFFICIAL ROUTING SLIP			
EO DDA		5 JUL 1978	hj
TO	NAME AND ADDRESS	DATE	INITIALS
1	Deputy Director for Administration	5 JUL 1978	hj
2	7D26 HQS.		
3	DDA		
4			
5			
6			
ACTION	DIRECT REPLY	PREPARE REPLY	
APPROVAL	DISPATCH	RECOMMENDATION	
COMMENT	FILE	RETURN	
CONCURRENCE	INFORMATION	SIGNATURE	

Remarks:

Jack:

I believe the attached route sheet note is responsive to our recent discussion on how we should inform IG of the disposition of the IG appeal to DDCI on behalf of [REDACTED] request for restoration of leave.

STATINTL

Thomas B. Yale

STATINTL

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.	DATE
Director of Finance	1212 Key Bldg. 6/30/78
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UNCLASSIFIED CONFIDENTIAL SECRET

(40)

DEPT OF DEFENSE
DEPARTMENT OF DEFENSE
781063

DDA

30 MAY 1978

DD/A Registry
783222

MEMORANDUM FOR: Deputy Director of Central Intelligence

VIA : Deputy Director for Administration

FROM : John H. Waller
Inspector General

SUBJECT : [REDACTED], GS-15, Request for Restoration
of 59 Hours of Annual Leave

25X1A

25X1A

1. Action Requested: That you approve the recommendation
in paragraph 16 to restore 59 hours of annual leave lost by Mr.
[REDACTED] at the end of 1976.

25X1A

2. Background: [REDACTED] leave was lost as a result of
a sequence of events that prevented his taking planned leave in
the last quarter of 1976.

25X1A

3. On 25 August 1976, [REDACTED] requested in writing 80
hours of annual leave for the period 30 August through 13 September.
This was approved by his Branch Chief on the same date. Due to the
press of business, involved with the analysis of a major foreign
technical system, this leave was postponed to the period 7 Sep-
tember to 20 September. A copy of the leave slip is attached. The
amendment to the scheduled leave was not approved in writing.

25X1A

4. On 4 September 1976, [REDACTED] departed the Washington
area for a vacation in Pennsylvania. On Monday, 6 September, a
decision was taken at a meeting at CIA Headquarters at which the
Associate DDS&T, the Director of the Office of Weapons Intelligence,
[REDACTED]

25X1A

25X1A

5. [REDACTED] returned from leave on Thursday, 9 September,
and left for [REDACTED] the following day. On 9 September, [REDACTED]
leave slip was marked, by his Branch Chief, "cancelled." A total
of 56 hours of his scheduled 80 hours was cancelled by this action.

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CL BY 055636

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6. On 18 October, [REDACTED] completed the overseas phase of the exploitation effort. He was involved in various aspects of the exploitation follow-up until 5 November.

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25X1A 7. On 1 November, [REDACTED] applied for leave for two periods, 22-30 November and 20-31 December. On the face of the leave slips this involved a total of 128 hours of annual leave. Copies of these approved applications are attached. During the above period it was learned that a government in the Middle East was willing to receive a technical team from CIA [REDACTED]. The timing for the team was subject to the requirements of that government.

25X1A

25X1A [REDACTED] was advised to be on standby for a possible TDY, and on 12 November the decision was taken for the trip in question. The ADDS&T, in consultation with the DDS&T, agreed to the cancellation of [REDACTED] leave scheduled for 22-30 November.

25X1A

25X1A [REDACTED] Branch Chief wrote "cancelled" on the leave application for that period, thereby cancelling 48 hours of leave. [REDACTED] was involved from 12 November through 10 December planning and acquiring the equipment for the overseas exploitation effort, and on the overseas trip. He was involved from 13 to 17 December in follow-up work in connection with the exploitation effort. [REDACTED] took 64 hours of annual leave from 20 to 31 December, as had been scheduled previously. There being no more time left in the year, he had 59 hours of unused leave at the end of that period.

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25X1A 8. On 7 April 1976, in compliance with the advice of the OWI Administrative Officer, [REDACTED] submitted an application to the Director of Finance for the restoration of 59 hours of unused annual leave lost in 1976. The Acting Director of Finance rejected the request on 7 September 1977, noting that:

25X1A ". . . Annual leave forfeited because of an exigency of public business is eligible for restoration only if determination of the exigency is made in writing in advance or concurrently with the cancellation of leave by the cognizant Deputy Director or his designee. The Deputy Director for Science and Technology has made such a delegation to Mr. [REDACTED] Executive Officer, DDS&T.

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"Unfortunately the determination of the exigency and cancellation of leave by [REDACTED] does not qualify the forfeited leave for restoration."

9. The Executive Officer of the Directorate of Science and Technology requested a review of the decision, and on 31 January 1978 the Director of Finance replied noting that he lacked authority to restore the leave in the absence of a determination of an exigency of public business and the cancellation of leave in writing prior to the beginning date of the scheduled leave.

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10. Findings:

The Agency regulation specifies that the determination of the exigency of public business will be made in writing, in advance of the cancellation of leave, by the Deputy Director concerned.

11. In the first instance the ADDS&T, in the absence of the DDS&T, authorized the cancellation of the leave. In the second instance the DDS&T was informed of the requirement to cancel the leave, and in the absence of an objection we interpret this as implicit approval. Thus, as a finding of fact, the decision was taken at the proper level, that of the top command level of the Directorate in question.

12. While it is a requirement of the law that the leave be approved in writing in advance, it is not a requirement of the law that its cancellation be approved in writing in advance. That requirement is unique to this Agency, and has been criticized as an unrealistic, bureaucratic requirement. The present situation, with the odd sequence of events, makes it very clear that an injustice would result from a narrow administrative requirement that defeats the apparent attempt of the Congress to make it possible to have properly approved leave restored.

25X1A

13. [REDACTED] in his attempt to use his annual leave, has suffered from a sequence of events that deprived him of much of the leave he had planned to take.

14. While the Agency is bound by the requirements of statute, it is not bound by the unjust results of its own regulations. The issuing authority can waive the application of such a regulation when it reaches an improper result, as in the present case.

15. Staff Position: The Director of Finance is not authorized to make exceptions to Agency cases such as this and administers the letter of the regulation. The Office of General Counsel, in past cases, has opined that the DDCI has authority to waive this requirement of the regulation in cases such as this although as a matter of administrative policy it has argued against doing so. We believe that reason and equity, in this case, warrants the waiving of the regulation as it applies to [REDACTED], and we support the restoration of the lost leave.

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16. Recommendation: That you approve the restoration of 59 hours of annual leave lost by [REDACTED] at the end of 1976, and that the Director of Finance be instructed to take proper steps to credit him with leave accordingly.

25X1A

(signed)
John H. Waller
John H. Waller

Attachment: a/s

APPROVED:

Deputy Director of Central Intelligence

DISAPPROVED:

Deputy Director of Central Intelligence

DATE: _____

TO : Director of Finance

STATINTL

SUBJECT : Application to Restore Leave Forfeited -

(Employee's Name and Number)

REFERENCE: Public Law 93-181

59

1. It is requested that 64 hours of annual leave forfeited by the above employee be restored and established by the Office of Finance in a special leave account.

STATINTL 25 August and

2. On 1 November 1976 all or part of the leave forfeited was scheduled and approved by
(see Form 71 attached) to be used as follows:

(Supervisor)

(Show date(s) during which the leave was scheduled for use and the amount of leave (days/hours) scheduled.)

3. 59 hours of this leave were cancelled because of:

(a) Exigencies of public business. Beginning dates 22 Nov., Ending dates 17 Dec.

(Attach a complete statement of the nature of the exigency, i.e., the circumstances and factors that made this an exigency of the public business.)

(b) Illness. Beginning date _____, Ending date _____

4. Disposition of 59 hours of cancelled leave (from paragraph 3 above):

(a) Number of hours used 0

(b) Carried forward to new leave year 0

(c) Forfeited 59

(d) Number of work hours remaining in leave year following ending date of exigency or illness as stated in paragraph 3 above. 64 Leave was also scheduled for time period.

(SEE ATTACHED SF-71)

Note: Hours of forfeited leave eligible for restoration (paragraph 1 above) may not be greater than the excess of amount reported for item 4(c) over item 4(d) unless caused by illness or exigencies of the public business -- if greater, explain on reverse side and attach supporting documentation.

STATINTL

Employee's Signature

7 April 1977

Date

APPROVED:

Approved For Release 2001/09/01 : CIA-RDP81-00142R000400070004-0

Authorizing Official

Date

STATINTL

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Next 2 Page(s) In Document Exempt

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STATINTL

TO	NAME AND ADDRESS	DATE	INITIALS
1	D/Financial		
2	Ref [REDACTED]		
3	1212 [REDACTED]		
4			
5			
6			
ACTION	DIRECT REPLY	PREPARE REPLY	
APPROVAL	DISPATCH	RECOMMENDATION	
COMMENT	FILE	RETURN	
CONCURRENCE	INFORMATION	SIGNATURE	
Att: DDA 78-2222			

Remarks:

Hugh,
 Here is the case I
 spoke with you on
 the telephone on Wednesday
 Thank [REDACTED]

STATINTL

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FROM: NAME, ADDRESS AND PHONE NO.	DATE
Deputy Director for Administration 7D 24 Hqs. x5454	31 May 78
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FORM NO. 237 Use previous editions
1-67

(40)

"Hugh,
 "Here is the case I spoke with you on the
 telephone on Wednesday.
 "Thanx. /s/Jack Blake"

DDA:JFBlake:kmg(31 May 78)

STATINTL

Distribution:
 Orig RS - D/Fin(Att: [REDACTED] w/o Att (by hand
 of D/F-
 5/31/78)

- DDA Subj w/3 cys of Att
- DDA Chrono
- JFB Chrono

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Att: Memo dtd 30 May 78 to DDCI RDP81-00142R000400070004-0

STATINTL

GS-15, Request for Restoration of
[REDACTED] Leave (DDA 78-2222)